



Rail Industry Safety Notice



RISN No. 20

PROHIBITIONS REGARDING RIDING ON ROLLING STOCK

Background

The purpose of this Rail Industry Safety Notice (RISN) is to remind all rolling stock operators of the prohibitions that continue to exist under the *Rail Safety Act 2002* in regard to persons riding on rolling stock.

The prohibition applies to all rolling stock operators under a notice (see attached) issued by the Independent Transport Safety and Reliability Regulator (ITSRR) in July 2004 following a fatality in the Port Botany yard. Recently WorkCover successfully prosecuted the relevant operator in the Industrial Court over the Port Botany incident.

The Prohibition Notice prohibits persons from riding on a unit of rolling stock whilst the unit is in motion. Riding within a designated operating station or other enclosed space specifically designed to protect persons during the movement of the rolling stock is not prohibited. It applies to all rolling stock except that designed for the carriage of passengers or persons.

For example, the Prohibition Notice would prohibit persons riding on flat top wagons.

ITSRR does not consider the following to be designated safe places:

- riding on rolling stock where the person extends outside the rolling stock outline and is exposed to the risk of being struck by rail structures
- riding on ladders or steps of moving rolling stock
- riding on freight wagons (which are designed for freight, not people)
- alighting or disembarking from moving locomotives by the external ladder
- riding anywhere where the risk of a person falling under, between or into the path of rolling stock is foreseeable
- riding on rolling stock where steel guard rails are in place but a person can still fall between the guard rails if, for instance, the person loses consciousness.

The Prohibition Notice allows for affected railway operators to apply to ITSRR for an exemption through a variation to their accreditation. Under section 54 of the *Rail Safety Act 2002*, the Prohibition Notice remains in place until the risk giving rise to the unsafe activity has been remedied. As there continues to be a clear and present risk of death or injury of persons riding on rolling stock, ITSRR has not withdrawn the Notice.

In February 2005, a Rail Safety Worker was seriously injured when he fell from end steps of the last wagon of a propelling train and was run over by rolling stock. Your attention is

drawn to the Australian Transport Safety Bureau (ATSB) Safety Report 2005/003
"Shunting Accident – Regency Park, South Australia" (www.atsb.gov.au).

Action

All affected operators must ensure they have in place appropriate systems and procedures as part of their safety management system which:

- identifies this risk in their risk register
- sets out policies and procedures clearly outlining the prohibition of this activity
- ensures that all of the operator's employees, volunteers and contractors are made aware that riding on rolling stock unless in a designated safe position is prohibited.

For further information contact Mark Buckley, Manager Operations Support on (02) 8263 7191.



Carolyn Walsh
Chief Executive

Attachment: Prohibition Notice (4 pages)



INDEPENDENT
TRANSPORT
SAFETY AND
RELIABILITY
REGULATOR

Notice Number: [REDACTED]
Objective File Number [REDACTED]
Document number: [REDACTED]

Rail Safety Act 2002 (NSW)

Prohibition Notice

To: [REDACTED]

of: [REDACTED]

Pursuant to section 54 of the *Rail Safety Act 2002 (NSW)*, this notice is issued as a result of an investigation into a fatality of a rail safety worker involving railway rolling stock not specifically designed for the carriage of persons or passengers.

Defined terms.

1. For the purposes of this Prohibition Notice, the following terms have the following meanings:

riding means a person or persons being on a unit of rolling stock whilst the unit is in motion.

rolling stock means railway rolling stock not specifically designed for the carriage of persons or passengers. Examples include coal, grain and container flat wagons.

Activity.

2. I am of the opinion that the activity described below is occurring and that the activity presents an immediate risk to the safety of rail safety workers and any other persons riding on rolling stock:
 - (a) Riding on rolling stock otherwise than within a designated operating station or other enclosed space specifically designed to protect persons during movement of the rolling stock.

Reasons.

3. The reasons for the opinion are as follows:
 - (a) There are currently no safe means of restraining persons riding on the rolling stock in the circumstances described above.
 - (b) A person riding on open top container style rolling stock can fall through the container deck of the wagon into the path of the rolling stock bogies and wheels. Any person riding on the rolling stock can fall between units of rolling stock into the path of the rolling stock bogies and wheels.
 - (c) A person riding on the steps provided on some rolling stock can fall if his or her hands or feet are removed from the step or handhold. Current communication devices (radio), as required by accreditation and network rules and carried by persons other than those operating locomotives, are not mandated as hands-free. Any person using these devices when riding on the steps of the rolling stock must remove at least one hand to operate the device. This action presents an immediate risk to the safety of the person.
 - (d) The risk as described in paragraph 2 (c), is also present if persons, other than those operating locomotives, are riding on the rolling stock and utilise a mobile telephone as a backup communication device.
 - (e) There is a risk of persons riding otherwise than within operating stations or other enclosed spaces being flung from the rolling stock by the jolting impact of multiple wagons.

Directions.

4. Pursuant to section 54 of the *Rail Safety Act 2002*, you are required to immediately cease the activity of permitting employees, contractors or other persons in your control from riding railway rolling stock (whether outside, within or upon that rolling stock) unless riding within a designated operating station or other enclosed space specifically designed to protect persons during the movement of the rolling stock.
5. You are directed to take all necessary measures to ensure that rail safety workers and other persons are immediately prohibited from riding on the rolling stock, including during train movements in yards, terminals and sidings, except in circumstances described in paragraph 4 above.

Date of effect and procedure for seeking exemptions.

6. This notice takes immediate effect from the date and time of its execution. This notice remains in force unless and/or until your organisation applies for and is granted an exemption by the Independent Transport Safety and Reliability Regulator. Application is to be via a request for variation of accreditation. The application is to include a comprehensive risk assessment and the methodology by which persons riding on the rolling stock will be restrained or otherwise protected.

Review Rights.

7. The *Rail Safety Act 2002* (NSW) contains provisions for persons given notice under Division 2 of Part 3 to apply for a review. These provisions are summarised overleaf.
8. Enquires in relation to this notice may be directed to me on (02) 8263 7148.

Issued this [REDACTED]

.....
[REDACTED]
Authorised Officer,
Independent Transport Safety and Reliability Regulator

Note: This information forms part of the Prohibition Notice

What happens if you do not comply with a notice?

Under section 54(3) of the *Rail Safety Act 2002* (NSW), a person who, without reasonable excuse, fails to comply with a requirement imposed by a prohibition notice is guilty of an offence. The maximum penalty for this offence is specified in the Act.

What to do if there is a mistake in the notice

If the notice is addressed to the wrong person or contains incorrect information relating to the address or other details, you should contact the officer who issued you with the notice. His or her name and telephone number are on the notice.

What to do if you do not understand the notice or want to discuss it

If there is any matter which is unclear or which you do not understand about this notice, or if you want to discuss it, you should first contact the officer who issued you with the notice.

Review Rights

Section 56 of the *Rail Safety Act 2002* (NSW) provides that a person who is issued with a prohibition notice may apply to ITSRR for a formal review of the notice.

If you wish to apply to ITSRR for a review of the notice, you must make your application within 7 days after the notice was issued. An application for review may only be made once in respect of any particular notice. This application must:

- Be in writing
- Include a copy of the notice for which review is being sought
- Set out clearly the reasons why the review is sought
- Be sent to the Executive Director Corporate Strategy; Phone 8263 7192
- Contain your name and address
- Contain your telephone number

If you have been issued with a prohibition notice you must cease the activity until the matters giving rise to the notice are remedied.

If you apply for review of a prohibition notice you must continue to comply with the notice until it has been reviewed by ITSRR. If you want the prohibition notice to be stayed while the ITSRR review is taking place you will need to apply to the Administrative Decisions Tribunal for a stay of the notice under Section 57 of the *Rail Safety Act - 2002* (NSW).

ITSRR may, as a result of the review, confirm the original notice, vary it or revoke it. The confirmation, variation or revocation has effect when notice of the result of the review is given to you. In some cases the result may be given verbally to you by ITSRR and then later notified in writing. In such cases if the notice is confirmed or varied you must comply with the notice or variation as soon as ITSRR verbally gives you that information.

If you are not satisfied with the result of your review you may appeal against the notice concerned to the Administrative Decisions Tribunal.